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ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID B. CORNEAL and
SANDRA Y. CORNEAL,

Plaintiffs

v.

JACKSON TOWNSHIP, *et al.*,

Defendants

: NO. 1:CV-00-1192

: JURY TRIAL DEMAND

: RAMBO, J.

FILED
HARRISBURG PA
MAR 03 2003

MARY E. D'ANDREA, CLERK
Per *[Signature]*

**PLAINTIFFS' MOTION TO STRIKE
DEFENDANTS' MOTION FOR RECONSIDERATION**

AND NOW, pursuant to Local Rule of Civil Procedure 7.1, Plaintiffs David B. Corneal and Sandra Y. Corneal (the "Corneals") submit this Motion to Strike Defendants' Motion for Reconsideration, and in support thereof, state:

1. On May 23, 2002, Defendants Jackson Township, W. Thomas Wilson, Michael Yoder, Ralph Weiler, Ann L. Wirth, David Van Dommelen and Barry Parks, submitted a motion for summary judgment in the above captioned matter, and filed a brief in support of their motion on or about June 6, 2002.

2. On or about June 24, 2002, the Corneals filed a cross-motion for summary judgment and combined papers in support of their motion and in opposition to the Defendants' motion for summary judgment.

3. On December 23, 2003, this Court entered its Order denying the Corneals' motion for summary judgment, and granting, in part, the Defendants' motion for summary judgment.

4. Specifically, the Court granted Defendants' motion for summary judgment as to all Defendants on Plaintiffs' procedural due process claims under both the U.S. and Pennsylvania Constitutions and Plaintiffs' claim for intentional interference with contractual relations. The Court also granted Defendants' motion for summary judgment on Count III, civil conspiracy, solely as to the Township, but denied the Defendants' motion for summary judgment as to Plaintiffs' substantive due process claims under the U.S. and Pennsylvania Constitutions.

5. On or about January 8, 2003, the Corneals filed a timely Motion for Reconsideration of the Court's Order of December 23, 2002.

6. On or about January 17, 2003, the Court granted the Corneals an extension of time to file a brief in support of their Motion for Reconsideration.

7. On or about January 30, 2003, the Corneals timely filed their Brief in Support of their Motion for Reconsideration.

8. On or about February 14, 2003, Defendants filed with this Court a Motion for Reconsideration of the Court's Order dated December 23, 2002.

9. Federal Rule of Civil Procedure 59(e) provides that:

Any motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment.

Fed. R. Civ. P. 59(e).

10. Middle District Local Rule 7.10 provides that

Any motion for reconsideration or reargument shall be filed within ten (10) days after the entry of the judgment, order or decree concerned.

Local Rule 7.10.

11. Defendants' Motion for Reconsideration was filed 53 days after the entry of the order on which they now seek reconsideration.

12. Defendants' Motion for Reconsideration further is based upon caselaw that was published and available to Defendants at least one month before Defendants filed their motion, and, therefore, there is no excuse for the extent of Defendants' untimeliness.

13. Defendants' Motion for Reconsideration clearly is out of time, and will substantially disrupt the Amended Case Management Deadlines that this Court established by Orders dated December 30, 2002, and January 3, 2003.

WHEREFORE, Plaintiffs David B. Corneal and Sandra Y. Corneal respectfully request this Court to strike Defendants' Motion For Reconsideration as untimely.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC



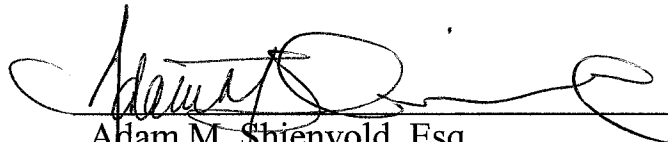
Bridget E. Montgomery, Esq.
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Harrisburg, PA 17108-1248
717.237.6000

Date: 3/3/03

Attorneys for Plaintiffs, David B. and Sandra Y.
Corneal

CERTIFICATE OF CONCURRENCE/NON-CONCURRENCE

I certify that I attempted to contact Anthony R. Sherr, Esq., to obtain his concurrence in the foregoing motion pursuant to Middle District Local Rule 7.1. Mr. Sherr was unavailable and his concurrence therefore is presumed to be denied.


Adam M. Shienvold, Esq.

Date: 3/3/03

Attorney for Plaintiffs, David B. and Sandra Y.
Corneal

CERTIFICATE OF SERVICE

I certify that I delivered a copy of the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of the Federal Rules of Civil Procedure.

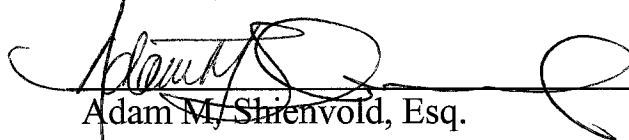
By First Class U.S. Mail

Anthony R. Sherr, Esq.

Mayers, Mennies & Sherr, LLP

P. O. Box 1547

Blue Bell, PA 19422-0440

A handwritten signature in black ink, appearing to read "Adam M. Shrienvold", is written over a horizontal line.

Adam M. Shrienvold, Esq.

Date: 3/3/03

Counsel for Plaintiffs, David B. and Sandra Y.
Corneal

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SANDRA Y. CORNEAL,	:	
Plaintiffs	:	JURY TRIAL DEMANDED
	:	
v.	:	RAMBO, J.
	:	
JACKSON TOWNSHIP, <i>et al.</i> ,	:	
Defendants	:	

ORDER

AND NOW, this ____ day of March, 2003, upon consideration of Plaintiffs' Motion to Strike Defendants' Motion for Reconsideration, it is hereby ORDERED that Plaintiffs' Motion to Strike is GRANTED.

By the Court,

Rambo, J.

cc: Bridget E. Montgomery, Esq.
Anthony R. Sherr, Esq.